

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

MUNSON HARDISTY, LLC,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:15-CV-547-TAV-CCS
)	
LEGACY POINTE APARTMENTS, LLC,)	
)	
Defendant.)	

ORDER

This civil case is before the Court on defendant's Motion to Stay [Doc. 68], to which plaintiff responded [Doc. 69], and defendant replied [Doc. 71]. In its motion, defendant asks that the Court stay this case pending the Court's resolution of defendant's pending Motion to Dismiss [Doc. 59]. In its response, plaintiff argues that while it does not oppose a stay, it believes that the stay should be pending the Court's resolution of defendant's appeal of Magistrate Judge C. Clifford Shirley, Jr.'s attorney disqualification order, in which Judge Shirley disqualified defendant's counsel [Doc. 56].

As an initial point, the Court notes that the Sixth Circuit has indicated that "[a] district court must rule on a motion for disqualification of counsel prior to ruling on a dispositive motion because the success of a disqualification motion has the potential to change the proceedings entirely." *See Bowers v. Ophthalmology Grp.*, 733 F.3d 647, 654 (6th Cir. 2013). In this case, defendant asks the Court to rule on a pending motion to dismiss prior to resolving the appeal of an attorney disqualification order. Although the Court notes that the motion to dismiss was not submitted by disqualified counsel,

considering the procedural posture of this litigation, the motion was still possibly prepared “under the auspices of conflicted counsel.” *See Grimes v. District of Columbia*, 794 F.3d 83, 90 (D.C. Cir. 2015). Thus, the Court agrees with plaintiff that it would be more appropriate to fully resolve the attorney disqualification issue prior to resolving any substantive motions in this case, because the Court’s ruling on the disqualification issue “has the potential to change the proceedings entirely.” *See Bowers*, 733 F.3d at 654.

In light of this, and for good cause shown, the motion [Doc. 68] is **GRANTED** to the extent that this action is hereby **STAYED** pending the Court’s resolution of defendant’s appeal of Judge Shirley’s attorney disqualification order [Doc. 56].¹ In addition, defendant’s Motion to Dismiss [Doc. 59], and plaintiff’s Motion for a Status Conference [Doc. 63] and Motion to Amend [Doc. 72] are **DENIED** without prejudice and with leave to renew upon the lifting of the stay

IT IS SO ORDERED.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE

¹ The Court notes as well that plaintiff’s pending Renewed Motion for Leave to File Documents Under Seal [Doc. 61] is related to defendant’s appeal of Judge Shirley’s order.